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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 BRANDON JOE WILLIAMS,
20 Plaintiff,
21 v.
22 UNITED STATES SMALL
23 BUSINESS ADMINISTRATION,
24 Defendant.

25 No. 2:24-cv-09553-RGK-SK

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28
**UNITED STATES SMALL BUSINESS
ADMINISTRATION'S OPPOSITION
TO PLAINTIFF'S MOTION TO
REMAND**

*[Proposed Order filed concurrently
herewith]*

19 Hearing Date: December 23, 2024
20 Hearing Time: 9:00 a.m.
21 Ctrm: 850

22 Honorable R. Gary Klausner
23 United States District Judge

1 **DEFENDANT'S OPPOSITION TO MOTION FOR REMAND**

2 **I. INTRODUCTION**

3 After defendant the United States Small Business Administration (“SBA”)
4 removed this action to District Court [Dkt. 1], Plaintiff Brandon Joe Williams has filed a
5 Motion to Remand this action to the Superior Court of the State of California for the
6 County of Los Angeles. Dkt. 12 (“Remand Motion”). Plaintiff incorrectly argues that the
7 District Court lacks subject matter jurisdiction over this action because the Complaint’s
8 claims are “exclusively state-law based without any federal questions presented.” *Id.* But
9 in arguing about federal question jurisdiction, Plaintiff misunderstands the removal
10 pursuant to 28 U.S.C. § 1442(a)(1) that the SBA filed.

11 Plaintiff has sued the SBA, a federal agency, for a very broad range of claims
12 ranging from tort to contract. *See* Dkt. 1-1 (Complaint or “Compl.”). Such claims against
13 a federal agency are properly removed to this Court under 28 U.S.C. § 1442(a)(1). A
14 federal agency may remove pursuant to 28 U.S.C. § 1442(a)(1) when it has colorable
15 federal law defenses, such as the doctrine of sovereign immunity. Such removal under §
16 1442(a)(1) is proper if the defendant has even one potential federal law defense to one of
17 the asserted claims. *See DeFiore v. SOC LLC*, 85 F.4th 546, 558 (9th Cir. 2023). Here,
18 as set forth in the SBA’s pending motion to dismiss Plaintiff’s claims [Dkt. 8], which
19 was filed on November 12, 2024, the SBA has numerous such federal defenses to the
20 Complaint’s claims, including sovereign immunity and the Federal Tort Claims Act’s
21 jurisdictional limitations. Indeed, not only are the SBA’s defenses colorable; they require
22 dismissing Plaintiff’s claims as a matter of law, as the SBA’s motion explained. *See id.*
23 Accordingly, Plaintiff’s Motion to Remand is defective and should be denied. *See Boules*
24 *v. United States*, 2:23-cv-08891-CBM-PVCx, 2024 WL 751003, at *2 (C.D. Cal. Feb.
25 21, 2024) (denying plaintiff’s motion to remand action removed under § 1442 because
26 “the entities who sought removal are all federal agencies” and “the plain language of 28
27 U.S.C. § 1442(a)(1) allows federal agencies to remove any civil actions against or
28 directed to them.”).

1 **II. FACTUAL AND PROCEDURAL HISTORY**

2 On September 20, 2024, Plaintiff filed a civil action against the SBA in the
3 Superior Court of the State of California for the County of Los Angeles. *See* Compl.
4 Plaintiff's Complaint purports to assert claims against the SBA for breach of contract,
5 breach of fiduciary duty, "currency" cause of action, contract fraud, conversion, unjust
6 enrichment, violation of California Business and Professions Code § 17200, *et seq.*,
7 violation of California Penal Code §§ 496, 236.1, 487, and criminal violation of
8 California Corporations Code § 25541. *Id.* ¶¶ 20-64. Most of the allegations in Plaintiff's
9 Complaint derive from sections of the Model Uniform Commercial Code (UCC). *Id.* ¶¶
10 13-14, 23-24 28-29, 31.

11 On November 5, 2024, the SBA removed this action to District Court pursuant to
12 28 U.S.C. § 1442(a)(1). Dkt. 1.

13 On November 12, 2024, the SBA moved to dismiss the Complaint's claims
14 against it pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6). Dkt. 8. The
15 SBA's Motion is scheduled to be heard on December 23, 2024.

16 On November 27, 2024, Plaintiff filed his motion to remand the case back to the
17 Superior Court. *See* Remand Motion. Dkt. 12.

18 **III. REMOVAL OF THIS ACTION TO DISTRICT COURT BY DEFENDANT
19 THE UNITED STATES SMALL BUSINESS ADMINISTRATION WAS
20 PROPER UNDER 28 U.S.C. § 1442(a)(1).**

21 28 U.S.C. § 1442(a)(1) authorizes the removal of a civil action that is "against or
22 directed to" "[t]he United States or any agency thereof." "Courts afford § 1442 a
23 'generous' and 'liberal construction, interpreting the statute 'broadly in favor of
24 removal.' They do so because the statute 'vindicates... the interests of government itself
25 in 'preserving its own existence.'" *DeFiore*, 85 F.4th at 553 (quoting *Durham v.*
26 *Lockheed Martin Corp.*, 445 F.3d 1247, 1252-53 (9th Cir. 2006)). Indeed, when the
27 Supreme Court held that federal agencies did not have removal rights under a prior
28 version of § 1442, Congress then amended § 1442 to expressly permit removal by

1 federal agencies. *Durham*, 445 F.3d at 1252.

2 “A party seeking removal under section 1442 must demonstrate that (a) it is a
3 ‘person’ within the meaning of the statute; (b) there is a causal nexus between its actions,
4 taken pursuant to a federal officer’s directions, and plaintiff’s claims; and (c) it can assert
5 a ‘colorable federal defense.’” *Durham*, 445 F.3d at 1251 (quoting *Jefferson County v.*
6 *Acker*, 527 U.S. 423, 431 (1999)). The SBA’s removal in this case meets each of the
7 *Durham* elements.

8 First, the party that removed the action to this Court, defendant the SBA, is a
9 federal agency of the United States. The plain language of 28 U.S.C. § 1442(a)(1)
10 authorizes such federal agencies to remove any civil actions against or directed to them.
11 As noted above, Congress deliberately amended § 1442 to expressly allow for such
12 removal by federal agency defendants. *See State of Neb. ex rel. Dep’t of Soc. Servs. v.*
13 *Bentson*, 146 F.3d 676, 678 (9th Cir. 1998). Indeed, when a federal agency defendant
14 removes a case under § 1442, the first two factors of *Durham* are inherently met because
15 the removing party in question is a federal agency that has been sued for its alleged
16 actions. *See Boules v. United States*, 2:23-cv-08891-CBM-PVCx, 2024 WL 751003, at
17 *2 (C.D. Cal. Feb. 21, 2024) (denying plaintiff’s motion to remand action removed
18 under § 1442 because “the entities who sought removal are all federal agencies” and “the
19 plain language of 28 U.S.C. § 1442(a)(1) allows federal agencies to remove any civil
20 actions against or directed to them.”).

21 Plaintiff provides no relevant authority to support his peculiar and erroneous
22 contention that 28 U.S.C. § 1442(a)(1) does not apply to federal agencies. *See* Remand
23 Motion. Instead, Plaintiff cites *A.L.T. Corp. v. Small Bus. Admin.*, 801 F.2d 1451 (5th
24 Cir. 1986). *See* Remand Motion, p. 5, Section D. But *A.L.T. Corp.* has nothing to do with
25 the validity of removal of civil actions to District Court under Section 1442. Rather the
26 Fifth Circuit reviewed cross motions for summary judgment addressing whether a
27 previously entered state court judgment was entitled to full faith and credit in federal
28 court, and in so doing decided whether the state court lacked personal jurisdiction over

1 the SBA. *See A.L.T. Corp.*, 801 F.2d at 1455. The Fifth Circuit held that the Texas state
2 court lacked subject matter jurisdiction over the plaintiff's tort-based claim under the
3 Federal Torts Claims Act ("FTCA") but had subject matter jurisdiction over the
4 plaintiff's contract-based claim, because of a "sue and be sued" statutory provision that
5 applied to the SBA. *Id.*, 801 F.2d at 1462-63. That holding is irrelevant to Plaintiff's
6 Motion to Remand because the removal question does not turn on whether the Superior
7 Court could potentially have adjudicated contract-based claims against the SBA *in the*
8 *absence* of a removal (as in *A.L.T. Corp.*), but rather on whether the SBA's removal of
9 the lawsuit to District Court under 28 U.S.C. § 1442(a)(1) was proper. Moreover, as the
10 SBA's pending motion to dismiss explained, while contract-based claims can potentially
11 be adjudicated against the SBA in state court, the same is not true of tort claims or state
12 criminal charges such as those asserted by Plaintiff's Complaint in this lawsuit. *See* Dkt.
13 8.

14 The second *Durham* element is also indisputably met. Although the SBA disputes
15 the accuracy and legitimacy of many of the Complaint's allegations in the complaint, the
16 pleadings assert a causal nexus between the defendant SBA's actions or alleged inactions
17 and the Plaintiff's claims in his Complaint. Plaintiff's Complaint challenges his
18 obligations under a loan that he obtained from the SBA, which is why he has sued the
19 SBA as the Complaint's named defendant. He claims the SBA is harming him by its
20 wrongful actions, and thus there is facially a causal nexus.

21 Specifically, the Complaint alleges that in May of 2020, Plaintiff obtained an
22 Economic Injury Disaster Loan ("EIDL" or the "Loan") from the SBA in an original
23 amount of \$59,000. Compl. ¶ 6; Ex. D. For the Loan in the original amount, he signed a
24 promissory note. *Id.* ¶¶ 8-9. On December 14, 2021, Plaintiff applied and modified the
25 Loan to increase the total amount to \$198,700. Compl. ¶ 7. For this increased Loan,
26 Plaintiff signed a second promissory note. *Id.* ¶ 9. Plaintiff alleges that when he signed
27 the first and second promissory notes for these loans, he was unaware of their terms and
28 conditions. *Id.* ¶¶ 8-9. Plaintiff contends he was an "eligible entity" to receive an EIDL

1 because he received the Loan on behalf of his business, Demand Creators, Inc. *See*
2 Comp. Ex. D; *see also* 15 U.S.C. § 9009(a)(2) (definition of eligible entity). As of
3 August 9, 2024, Demand Creators, Inc. was delinquent on its repayment on the Loan by
4 647 days. *Id.* This lawsuit followed as Plaintiff attempted to evade his Loan obligations
5 by blaming the SBA. Accordingly, the second *Durham* element is met.

6 Under the third and final *Durham* element, federal agencies like the SBA have the
7 colorable federal defense of sovereign immunity, which prohibits suing federal agencies
8 in certain venues and for certain types of claims (most obviously, state tort claims and
9 state law criminal charges such as the Plaintiff's Complaint attempts to assert against the
10 SBA here). *See F.D.I.C. v. Meyer*, 510 U.S. 471, 475 (1994) ("Absent a waiver,
11 sovereign immunity shields the Federal Government and its agencies from suit."); *Cox v.*
12 *U.S. Dep't of Agric.*, 800 F.3d 1031, 1032 (9th Cir. 2015) (per curiam). "In determining
13 removal jurisdiction under § 1442(a)(1), the scope of the court's inquiry is only whether
14 the defendant advanced a colorable federal defense, not whether [the] defense will be
15 successful. Defendants need not win [their] case before removal. And a removing
16 defendant need not have a colorable federal defense for every claim; one colorable
17 federal defense against one asserted claim is enough." *DeFiore*, 85 F.4th at 558 (internal
18 quotations and citations omitted).

19 Here, the SBA as a federal agency is entitled to, among other things, the federal
20 defense of sovereign immunity, along with federal defenses consisting of jurisdictional
21 limitations against certain types of tort liability and damages claims, as well as federal
22 contract law defenses (since federal contracts are not governed by state law). *See Boules,*
23 *supra*, 2024 WL 751003, *2 (denying motion to remand because federal agency
24 defendants had potential defenses of sovereign immunity, prohibition against being sued
25 *eo nomine*, and exclusive District Court jurisdiction for tort claims based on federal
26 officer acts).

27 The FTCA is the sole avenue of relief for tort claimants against the federal
28 government and its agencies, which are otherwise protected from tort claims by the

1 doctrine of sovereign immunity. *J.C. Driskill, Inc. v. Abdnor*, 901 F.2d 383, 386 (4th Cir.
2 1990); *Ascot Dinner Theatre, Ltd. v. Small Business Admin.*, 887 F.2d 1024, 1028-29
3 (10th Cir. 1989) (FTCA is exclusive remedy for actions against federal government
4 sounding in tort regardless of sue-or-be-sued clauses). And under the FTCA, federal
5 district courts have “exclusive jurisdiction” over civil actions for claims against the
6 United States for money damages for injury or loss of property caused by the negligent
7 or wrongful act or omission of any employee of the Government. 28 U.S.C. § 1346(b).
8 Accordingly, Plaintiff may not maintain tort claims against a United States agency in
9 Los Angeles County Superior Court.

10 In addition, Plaintiff’s lawsuit asserts legal theories akin to those commonly
11 maintained by so-called “sovereign citizens,” who often argue such theories to, among
12 other things, “extinguish debts.” *See Westfall v. Davis*, 2018 WL 2422059, at *2 (N.D.
13 Tex. May 4, 2018) (discussing sovereign citizen theories). Generally, such theories
14 depend on some variant of argument that the plaintiff is not actually an American
15 “citizen” who might be held responsible for their debt obligations but is rather some
16 other sort of legal entity separated from such citizenship. District Courts have
17 overwhelmingly rejected these types of claims for many years as frivolous and
18 indisputably meritless. *See Vachon v. Reverse Mortg. Sols., Inc.*, 2017 WL 6628103, at
19 *4 (C.D. Cal. Aug. 11, 2017), report and recommendation adopted, 2017 WL 6626649
20 (C.D. Cal. Dec. 28, 2017); *Mack v. Sweet*, 2017 WL 6756667, at *3-4 (N.D. Tex. Dec. 4,
21 2017); *McLaughlin v. CitiMortgage, Inc.*, 726 F. Supp. 2d 201, 209-12 (D. Conn. 2010).

22 For all of these reasons, the SBA was and is entitled to assert its colorable federal
23 defenses in District Court, just as they are currently asserted in its pending motion to
24 dismiss. *See* Dkt. 8.

25 Finally, the remainder of Plaintiff’s Motion to Remand focuses on a supposed lack
26 of federal question jurisdiction. *See* Remand Motion, Sections B and C. Plaintiff
27 summarily maintains that this Court lacks subject matter jurisdiction because his
28 Complaint only asserts state law claims, and thus asserts that there is no basis to invoke

1 federal question jurisdiction under 28 U.S.C. § 1331. *Id.* This argument fails. **First**, to
2 remove under § 1442(a)(1), the SBA does not need to prove that all of Plaintiff’s claims
3 inherently establish federal question jurisdiction, but rather that the removal was proper
4 pursuant §1442(a)—specifically because the SBA has colorable federal defenses to at
5 least one of Plaintiff’s claims (regardless of whether those claims are asserted under state
6 law or any other law).

7 **Second**, all of Plaintiff’s citations addressed separate jurisdictional statutes that
8 are irrelevant as applied here. For example, in *Gunn v. Minton*, 568 U.S. 251 (2013), the
9 Supreme Court held that a party asserting a state legal malpractice case for actions in a
10 prior patent infringement lawsuit could not invoke federal court jurisdiction under 28
11 U.S.C. § 1338, a statute providing exclusive federal jurisdiction for cases “arising under
12 any Act of Congress relating to patents.” *Gunn*, 568 U.S. at 258 (“...it is clear that
13 Minton’s legal malpractice claim does not arise under federal patent law.”). Plaintiff cites
14 to *Gunn* to argue there is not a “substantial federal issue” in his Complaint for this
15 District Court here to decide and to have jurisdiction over. *See* Remand Motion, p. 4; *see*
16 *also* *Gunn*, 568 U.S. at 260 (analyzing the “substantial federal issue” inquiry). But *Gunn*
17 did not involve a § 1442 removal. The Supreme Court decided *Gunn* after granting a
18 petition for writ of certiorari from the Texas Supreme Court because that state supreme
19 court ruled that the legal malpractice case, originally filed in state court, belonged in
20 federal court because the claim relied upon a question of federal patent law. *Gunn*, 568
21 U.S. at 257. Also, here there are actual substantial federal defenses, including those that
22 the SBA has raised in its Motion to Dismiss, that this District Court that can decide and
23 has exclusive jurisdiction over, such as the SBA’s sovereign immunity and the FTCA’s
24 jurisdictional limitations on tort claims.

25 Plaintiff also cites *Grable & Sons Metal Products, Inc. v. Darue Engineering &*
26 *Manufacturing*, 545 U.S. 308 (2005), and argues that this case does not “...require
27 federal interpretation and do not involve substantial federal questions.” *See* Remand
28 Motion, p. 4-5. *Grable* involved a private entity’s removal, pursuant to 28 U.S.C. §

1 1331, of a quiet title claim that requested an interpretation of federal tax law. *Grable*,
2 545 U.S. at 310, 312. *Grable* held that the national interest in providing a federal forum
3 for federal tax litigation is sufficiently substantial to support the exercise of federal-
4 question jurisdiction over the disputed issue on removal. *Grable*, 545 U.S. at 309. But
5 here, the SBA did not invoke § 1331 for the removal to this Court, and there is not a
6 “state forum interest” in hearing the Plaintiff’s claims against the SBA heard in
7 California Superior Court. SBA’s removal was under § 1442 is consistent with
8 congressional judgment that expressly allows federal agencies, like the SBA, to remove
9 a case into the federal forum, especially when it has the numerous colorable federal
10 defenses, as described in this Opposition and in its Motion to Dismiss. *See* Dkt. 8.

11 Further, in *Nevada v. Bank of America Corporation*, 672 F.3d 661, 667-72 (9th
12 Cir. 2012), the Ninth Circuit addressed the appropriateness of removal based under the
13 Class Action Fairness Act, 28 U.S.C. § 1332(d)(2)-(10), diversity jurisdiction of “mass
14 actions,” 28 U.S.C. § 1332(d)(11); and federal question jurisdiction, 28 U.S.C. § 1331.
15 Again, the SBA’s removal was under § 1442 on the grounds that it is a federal agency
16 that has colorable federal defenses to Plaintiff’s claims, which was not at issue in
17 *Nevada*. Next, in *California Shock Trauma Air Rescue (CALSTAR) v. State*
18 *Compensation Insurance Fund*, 636 F.3d 538, 541 (9th Cir. 2011), the Ninth Circuit
19 addressed the appropriateness of an action originally pled to have to federal question
20 jurisdiction under 28 U.S.C. § 1331 in federal district court. *CALSTAR* held that the
21 original filing in federal district court was not appropriate because there was no federal
22 question jurisdiction over that plaintiff’s Declaratory Judgment Act claim or the state
23 law claims. *CALSTAR*, 636 F.3d at 544. Here, the SBA’s removal pursuant to §
24 1442(a)(1) was based upon the fact that it is a federal agency that has colorable federal
25 defenses to Plaintiff’s claims—which was not at issue in *CALSTAR*.

26 Finally, Plaintiff cites *Lippitt v. Raymond James Financial Services, Inc.*, 340 F.3d
27 1033, 1035 (9th Cir. 2003). The *Lippitt* defendant was a private company that removed
28 the action to federal court only under 28 U.S.C. § 1331, with the intent of invoking

1 defenses under a federal statute, the 1934 Securities Exchange Act. *See Lippitt*, 340 F.3d
2 at 1036. *Lippitt* held that the Securities Exchange Act did not create a federal defense or
3 exclusive jurisdiction to be only heard in federal court and that *Lippitt* did not involve
4 “substantial federal questions” for invoking federal jurisdiction. *Id.* at 1042, 1045.
5 Distinguished here, the SBA is a defendant federal agency that has clear federal defenses
6 which should be heard in federal court—such as a lack of waiver of its sovereign
7 immunity and the FTCA’s jurisdictional limitations on tort claims.

8 **IV. CONCLUSION**

9 Plaintiff’s Motion to Remand should be denied.

10 Dated: December 2, 2024

Respectfully submitted,

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21 **Local Rule 11-6.2 Certificate of Compliance**

22 The undersigned counsel of record certifies that this Opposition memorandum
23 contains 2,994 words and is 9 pages which complies with the word limit set by L.R. 11-
24 6.1 and the page limit set by the Court’s Standing Order [Dkt. 6].

25 Dated: December 2, 2024

26 /s/ Alexander L. Farrell

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28 Assistant United States Attorney